

**Department of State Health Services  
Agenda Item for State Health Services Council  
May 5, 2005**

**Agenda Item Title:** Amendments to Rules Relating to Sudden Infant Death Syndrome

**Agenda Number:** 5d

**Recommended Council Action:**

☐ For Discussion Only

☒ For Discussion and Action by the Council

**Background:** The Title V and Health Resources Development Office reviews and approves requests for partial reimbursement of the cost of autopsies submitted by county judges if the cause of death is determined to be Sudden Infant Death Syndrome (SIDS).

**Summary:** Texas counties may receive partial reimbursement for the cost of autopsies performed on children 12 months old or younger who die suddenly, or whose cause of death is unknown, if the cause of death is determined to be SIDS. The proposed amendments authorize reimbursement if the cause of death is listed as SIDS is stated as the cause of death on either the autopsy report or the death certificate, and require that requests for payment be submitted to the department in a timely manner.

**Summary of Stakeholder Input to Date (including advisory committees):** All county judges were consulted and the rules were posted on the DSHS website for comments.

**Proposed Motion:** Motion to recommend HHSC approval for publication of rules contained in agenda item #5d.

**Presented by:** Chan McDermott

**Approved by:** Evelyn Delgado

**Date Submitted**

**Title:** Perinatal Coordinator

**Contact:** Chan McDermott

**04/11/05**

**Program/Division:** Title V and Health Resources Development Office

Title 25. HEALTH SERVICES  
Part 1. DEPARTMENT OF STATE HEALTH SERVICES  
Chapter 37. Maternal and Infant Health Services  
Subchapter H. Sudden Infant Death Syndrome  
Amendments §§37.171-37.173

**PROPOSED PREAMBLE**

The Executive Commissioner of the Health and Human Services Commission on behalf of the Department of State Health Services (department) proposes amendments to §§37.171-37.173, concerning Sudden Infant Death Syndrome (SIDS).

**BACKGROUND AND PURPOSE**

The amendments are necessary to ensure that the rules are current and reflect the recent consolidation of health and human service agencies. In addition, the proposed sections add the death certificate to the documents that can be submitted to support a county's claim for partial reimbursement of the cost of an autopsy. Health and Safety Code, §673.003, states that SIDS may be used as a primary cause of death on a death certificate required by Chapter 193, Death Records.

Government Code, §2001.039, requires that each state agency review and consider for readoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Sections 37.171-37.173 have been reviewed, and the department has determined that reasons for adopting the sections continue to exist because rules on this subject are needed.

**SECTION-BY-SECTION SUMMARY**

Amendments to §§37.171-37.173 provide clarification to the rules regarding the purpose of the subchapter, definitions, the time frame within which counties must submit claims for reimbursement of autopsy costs, and add the death certificate as an acceptable document to support a county's claim for reimbursement.

**FISCAL NOTE**

Chan McDermott, Perinatal Coordinator, Title V and Health Resources Development Office, has determined that for each year of the first five-year period that the sections will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed because the proposed sections make no substantive changes in the current rules.

**SMALL AND MICRO-BUSINESS IMPACT ANALYSIS**

Ms. McDermott has also determined that there will be no effect on small businesses or micro-businesses required to comply with the sections as proposed. Small businesses and micro-businesses will not be required to alter their business practices in order to comply with the

sections because the proposed sections include no substantive changes. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no anticipated negative impact on local employment.

## PUBLIC BENEFIT

In addition, Ms. McDermott has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing or administering the sections will be continued assurance that reimbursement for autopsies in which the primary cause of death is SIDS will be available to counties in a timely manner, as provided by law.

## REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environment exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environment exposure.

## TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed amendments do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

## PUBLIC COMMENT

Comments on the proposal may be submitted to Chan McDermott, Title V and Health Resources Development Office, Division of Family and Community Health Services, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756, 512/719-0243 or by e-mail to [Chan.McDermott@dshs.state.tx.us](mailto:Chan.McDermott@dshs.state.tx.us). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

## STATUTORY AUTHORITY

Health and Safety Code, §673.002(b), authorizes the Executive Commissioner of the Health and Human Services Commission to adopt rules that define Sudden Infant Death Syndrome and describe the method for obtaining reimbursement for the cost of an autopsy when the primary cause of death is Sudden Infant Death Syndrome. Government Code, §531.0055(e), and Health and Safety Code, §1001.075, also authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules reasonably necessary for the department to administer its regulatory and administrative functions.

The proposed amendments affect Health and Safety Code, Chapter 673.

Legend: (Proposed Amendments)

Single Underline = Proposed new language

**[Bold, Print, and Brackets]** = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

§37.171. Purpose. The purpose of these sections is to define sudden infant death syndrome (SIDS) and to establish a reimbursement **[payment]** mechanism for autopsies for children younger than 12 months of age who die unexpectedly and whose primary cause of death is SIDS.

§37.172. Definitions. The following words and terms pertain explicitly to this subchapter and shall have the following meanings, unless the context clearly indicates otherwise.

(1) Autopsy--A post mortem examination of the body of a person, including X-rays, toxicology screen, and an examination of the internal organs and structures after dissection, to determine the cause of death or the nature of any pathological changes that may have contributed to the death.

(2) (No change.)

**[(3) Parent--A natural parent, step parent, adoptive parent, legal guardian, or other legal custodian of a child.]**

**[(3)][(4)]**Sudden infant death syndrome (SIDS)--Death of an infant which remains unexplained after all known causes have been ruled out through a complete autopsy, death scene investigation, and medical and social history including, but not limited to, a **[Child Protective Services]** family history of the infant as designated by Child Protective Services.

§37.173. Reimbursement for Costs of Autopsy.

(a) The department shall reimburse the county in which an infant dies for the cost of an autopsy performed as required by Health and Safety Code, §673.002, only if the primary cause of death is SIDS.

(b) (No change.)

(c) The county judge for the county in which the infant died shall sign and submit to the Department of State Health Services a state **[Texas Department of Health]** purchase voucher (voucher) **[to the Child Health and Safety Division]** requesting reimbursement for **[all]** costs of the autopsy. A county's claim for reimbursement shall be submitted within 90 days following the completion of the written autopsy report, and shall **[also]** include a copy of the signed autopsy report.

(d) The department shall process the voucher and shall request that **[the Comptroller of Public Accounts to issue]** a warrant be issued for not more than \$500 payable to the county in

**§37.173**

which the infant died, if the primary cause of death stated on the autopsy report or the death certificate is SIDS.

(e)-(f) (No change.)